

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

VERONICA RAMIREZ,

Plaintiff,

v.

No. 20-cv-0824 MV/SMV

**JOSEPH J. MARTINEZ,
EBETH CRUZ-MARTINEZ,
MARIANNA VIGIL, and
ROBERT GONZALES,**

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER is before me on Plaintiff's Motion to Compel Discovery (the "Motion to Compel"), filed on April 7, 2022. [Doc. 95]. Defendant Gonzales responded on April 21, 2022 [Doc. 96], and Plaintiff replied on April 29, 2022. [Doc. 98]. Having considered the parties' submissions, the record, and the relevant law, I will deny Plaintiff's Motion to Compel as untimely under D.N.M.LR-Civ. 26.6, which provides that a party served with objections to discovery requests must file a motion to compel under Fed. R. Civ. P. 37 "within twenty-one (21) days of service of an objection."¹

Gonzales objected to Plaintiff's discovery requests on November 15, 2021. [Doc. 95] at 1. Between December 10, 2021, and January 3, 2022, the parties attempted unsuccessfully to resolve Gonzales's objections. *Id.*; [Doc. 96-9]; *see* Fed. R. Civ. P. 37(a)(1). Plaintiff received a transcript of Gonzales's deposition on February 7, 2022. *Id.* Plaintiff filed the Motion to Compel two months

¹ At the scheduling conference held on August 12, 2021, I warned counsel of the ramifications of missing the D.N.M.LR-Civ.26.6 deadline. [Doc. 52].


later, on April 7, 2022. [Doc. 95]. Nearly five months elapsed between Gonzales's objections to Plaintiff's requests and the Motion to Compel.

"For good cause, the Court may, *sua sponte* or on motion by a party, change the twenty-one (21) day period." D.N.M.LR-Civ. 26.6. Plaintiff argues there is good cause for an extension of the deadline because (1) the parties attempted to resolve the dispute in good faith between November 15, 2021, and January 3, 2022, and (2) she did not receive the transcript of Gonzales's deposition until February 7, 2022. However, even if good cause has been shown as to the period between November 15, 2021, and February 7, 2022, Plaintiff does not explain the 59-day delay between receipt of the deposition transcript and filing of the Motion to Compel. Hence, there is no good cause to extend the Local Rule 26.6 deadline and Plaintiff's Motion to Compel was not substantially justified.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion to Compel Discovery [Doc. 95] is **DENIED**.

IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 37(a)(5)(B), Plaintiff shall pay Gonzales's reasonable expenses, including attorneys' fees and costs, incurred in opposing the Motion to Compel. The Court **DIRECTS** the parties to confer and attempt to reach agreement as to payment of Gonzales's expenses. If the parties cannot agree on these expenses, Gonzales shall submit to the Court an application for expenses no later than **July 18, 2022**, and Plaintiff may respond within 10 days of the filing of such application.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge